

**Statement by Randy Callahan, Executive V.P.
National Homeland Security Council, AFGE**

before the

**House Select Committee on Homeland Security
Subcommittee on Management, Integration, and Oversight.**

March 9, 2005

Mr. Chairman, Honorable Members of the Subcommittee:

My name is Randy Callahan. I am currently an Immigration Enforcement Agent with the Department of Homeland Security's Bureau of Immigration and Customs Enforcement, Office of Detention and Removal Operations. I began my career in 1996, when I was hired by the Immigration & Naturalization Service as an Immigration Inspector. In 1997, I became an Immigration Detention Enforcement Officer. In August of 2003, the Detention Enforcement Officer was reclassified into my current position.

I am here today as the Executive Vice- President of Council 117 of the American Federation of Government Employees, also known as the National Homeland Security Council. The Council represents approximately fifteen thousand employees of the former Immigration and Naturalization Service, which, as you know, was split into three separate Bureaus: Customs and Border Protection (C.B.P), Immigration and Customs Enforcement (I.C.E) and Citizenship and Immigration Services (C.I.S) in March of 2003. On behalf of the bargaining unit members of these Bureaus, I thank you for inviting me to present NHSC's views on the current organizational structure of C.B.P and I.C.E and whether or not it best serves the homeland

security interests of U.S. citizens.

In our view, there are both advantages and disadvantages with each proposed organizational model. I shall attempt to present the pros and cons of each.

Arguments in Support of an I.C.E./C.B.P Merger:

Those proposing to combine I.C.E and C.B.P argue that the two Bureau structure is overly duplicative and bureaucratic. Proponents view I.C.E and C.B.P as mutually responsible for the enforcement of our nation's immigration and customs laws and their work forces should therefore be combined. Certainly, a review of the many occupational positions within the two Bureaus assigned to enforce immigration and customs law would suggest this.

C.B.P Officers, formerly known as Immigration or Customs Inspectors, are the first line of defense at all air, land, and sea ports of entry into the United States. They facilitate the legal entry of imported goods, as well as bona fide immigrants and non-immigrants, while identifying persons attempting to enter the country illegally using fraudulent methods. In addition, C.B.P Officers gather intelligence on smugglers, seize vehicles used by drug and alien smugglers, and prepare prosecution cases for the U.S. Attorney's office.

Border Patrol Agents are assigned to C.B.P and are responsible for the areas along the border between U.S. ports of entry. Their job is to prevent illegal border crossings, and to intercept drugs and people being smuggled into the country. I.C.E Criminal Investigators work

in the Office of Investigations (OI) and are responsible for breaking up human and drug smuggling organizations, as well as identifying, locating, and arresting terrorists and terrorist organizations working within the country.

Deportation Officers are assigned to I.C.E in the Detention and Removal Operations (DRO) division. They are responsible for locating and apprehending fugitive aliens, preparing travel documents for aliens that have been ordered removed from the country, and maintaining file dockets of removal proceedings.

Immigration Enforcement Agents (IEA) are assigned to I.C.E in either the office of Investigations or the Office Detention and Removal Operations. They are a combination of two positions that were part of the Immigration & Naturalization Service: Detention Enforcement Officers and Immigration Agents. They are largely responsible for holding in custody people arrested by other Immigration Officers and who are facing removal proceedings. Immigration Enforcement Agents assist Deportation Officers with fugitive operations, escorting aliens ordered removed from the country to their country, and basically serve at the will of C.B.P.

C.B.P uses Immigration Enforcement Agents as prisoner transport officers at both Border Patrol Sectors and ports of entry. Soon, the office of Detention and Removal will take over the Alien Criminal Apprehension Program (ACAP) from I.C.E's Office of Investigations. ACAP is a program where Criminal Investigators or Immigration Enforcement Agents assigned to the Office of Investigations identify aliens in violation of immigration laws at state and local prisons, or jails. Once state or local authorities have completed their review, illegal aliens are

transferred to I.C.E, where they are placed into removal proceedings.

Why are there so many different types of positions to enforce the same set of laws? Would it not make more sense to have one ‘all-encompassing’ position that is trained to enforce the law? In some ways, the answer is yes. Having one position would allow for greater flexibility in deploying the work force, would provide a career progression ladder, and would provide parity for pay and benefits. This last reason may well be why the positions have not been combined to date. C.B.P Officers are not provided law enforcement retirement benefits or the law enforcement salary rate. In fact, Immigration Enforcement Agents are paid at the lowest full performance GS level; Border Patrol Agents are paid less than Deportation Officers, who are paid less than Criminal Investigators. It is likely more cost effective for the government to keep the positions separate, though it is not necessarily best for the mission of the Bureaus or the Department.

Combining I.C.E and C.B.P could potentially eliminate several levels of management and combine budget control offices. Instead of having two Bureau heads, two directors of operations, two budget directors, two offices of labor relations, etc., it would be possible to consolidate these offices into one. The potential savings in salary and benefits by eliminating these management level positions is fairly significant.

Combining I.C.E and C.B.P may also result in greater cooperation between divisions. Indeed, as it stands right now, there is a serious lack of cooperation between legacy components (INS and Customs) of the two Bureaus. The leadership of the former INS and Customs Service

are, as we speak, locked in a heated battle for control of the purse strings. As President Bush acknowledged when discussing the position of Intelligence Czar, the larger the budget one controls in Washington, the more influence one has. The combined budget of I.C.E and C.B.P will give a great deal of additional power to the individual chosen to lead the merged Bureau. For this reason, I recommend that this person have a strong background in both immigration law enforcement and customs law enforcement. Only will such an individual have the ability to ensure that both sets of laws enforcement priorities.

Arguments in Support of Maintaining the Status Quo:

I have already given you the current organizational structure and a few reasons why I believe that combining the two Bureaus might make sense. Now, I will offer you some arguments in support of the status quo, arguments that have advantages in terms of mission effectiveness.

In looking at this issue, the question must be asked: Why was the INS split up in the first place? After the attacks of 9/11/01, the country demanded to know how the terrorists were able to enter the country. The investigation into the 9/11 attacks determined that there were several missteps by the Immigration and Nationalization Service that allowed the terrorists to plan and execute their plot. Couple that with the approval of student visas for a few of the terrorists subsequent to the attacks and you can understand why there was a call for dismantling the INS.

When the Department of Homeland Security was being created, a review of the functions of the different agencies was conducted to determine where each one belonged in the new

structure. Because of longstanding problems with INS management, it was judged that there was a need to divide the agency's responsibilities. It was also determined that the INS had failed to put sufficient emphasis on the enforcement of immigration laws in the interior parts of the U.S.

I know of countless situations in which the INS would shift funds and resources to focus on the favored projects of certain INS managers. For example, the former INS District Director in San Diego frequently used funds and resources from the Detention and Removal branch and the Investigations branch to support inspections operations at the San Diego Ports of Entry. In addition, the former INS Western Regional Director used the same resources to support Border Patrol operations in Arizona. These reallocations of funds meant that there was less money available for fugitive operations. It was in an attempt to prevent these types of problems in the future, that the office of Detention and Removal Operations and Investigations were separated from the Border Patrol and Inspections in the new Department. Clearly, the designers of the Department of Homeland Security were correct when they decided to separate these components of I.C.E and C.B.P.

Yet the problems still exist. As things now stand, C.B.P and Citizenship and Immigration Services (C.I.S) have expropriated over \$300M of I.C.E's funds under the current organizational structure. How much more money would C.B.P successfully siphon out of Detention and Removal and Investigation Operations if I.C.E and C.B.P were merged is a question I and my colleagues at I.C.E feel compelled to raise.

One of the main reasons it appears that I.C.E is failing is because it is being starved of

necessary resources. It may be that this hearing would not be necessary if I.C.E had all of the funds appropriated by Congress. I already alluded to a \$300 million shortfall in I.C.E's budget, because funds were transferred to C.B.P and C.I.S. I now hear that the Border and Transportation Security Directorate (BTS) took funds from all BTS components in order to support certain BTS activities. If that is the case, and Congress did not approve this reallocation of funds, then I hope you will address the issue with BTS. The problem may lie less with the organizational structure, and more with the people filling key leadership positions.

How Do Employees View the Merger:

I've laid out arguments both in favor of, and against the existing organizational structure, and I believe that a merger can work. But what do the employees in the field want? Frankly, it's a mixed bag. C.B.P managers strongly support a merger. They want access to the I.C.E dollars and the power that comes with them. They believe that in a merger of the two Bureaus, C.B.P will emerge as the lead agency. The primary concern of C.B.P employees is that there be someone to pick up their detainees and transport them to a detention facility or wherever they need to go.

Criminal Investigators that were Customs employees prior to the creation of I.C.E also generally support a merger. I have heard that they believe they will have a larger share of the budget pie under C.B.P than they currently have with I.C.E. I hear also that there is an attitude among former Customs CI's that immigration enforcement is somehow beneath them. It may be that because immigration law is so complex and their training in it so

limited, they have no desire to conduct investigations of immigration violations. Or, it may be that they simply want nothing to do with immigration matters. However, since all of the terrorists on 9/11 were immigrants, this is a dangerous situation that must be rectified.

Legacy Immigration Criminal Investigators largely want to remain in I.C.E. While they were recently taken out of the collective bargaining unit, and I am no longer able to represent them, I still field calls from Criminal Investigators who are frustrated with the way they are treated now that they can not be part of the union, but who feel they definitely have it better in I.C.E than they would in C.B.P.

Deportation Officers and Immigration Enforcement Agents also want to remain in I.C.E. They fear that the progress they have made in security funding for fugitive operations will be for naught, if C.B.P is allowed to divert DRO resources to support C.B.P initiatives. As one of my colleagues put it, "The border is, has been, and always will be, the squeaky wheel. Businesses and illegal immigrant rights activists don't cry when someone doesn't show up for their removal hearing, but man do they ever scream when the border wait is longer than forty-five minutes." The squeaky wheel will always get the grease, and the grease will be taken from Detention and Removal if C.B.P management can arrange it.

Conclusion:

The employees of I.C.E and C.B.P will work within whatever organizational structure is determined by Congress and the Secretary of Homeland Security. We strongly believe that, no matter what the structure, the mission of DHS is doomed to fail if management continues to cling

to its respective legacy components (INS, Customs) and battles for overall control of the Bureaus is allowed to continue. Whatever is decided on this issue, it is essential that Congress also ensures that I.C.E components receive the funds appropriated for them and not allow these funds to be continually diverted for other purposes.

Mr. Chairman, on a final, unrelated note, my ability to testify at this hearing stems from my right to be part of a union. It is an honor for me to be here and I hope to be able to speak on behalf of I.C.E employees for a long time to come. My colleagues in the I.C.E Office of Investigations, the Federal Air Marshal Service, the TSA, and other agencies that make up the Department of Homeland Security do not have the same right. Please correct this injustice by allowing them to join a union and by strengthening whistleblower protections. Employees should not have to suffer silently as they watch fraud, waste and abuse occurring in front of them. Thank you again for the opportunity to provide this testimony.